

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA)
)
v.) Case No: 1:20-CR-11-CLC-SKL
)
KENNETH COLBAUGH)

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) grant Defendant's motion to withdraw his not guilty plea to Count One of the five-count Second Superseding Indictment (2) accept Defendant's plea of guilty to the lesser-included offense of the charge in Count One of the Second Superseding Indictment, that is, of conspiracy to distribute and possess with intent to distribute 5 grams or more of methamphetamine (actual) and 50 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance in violation of Title 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B); (3) adjudicate Defendant guilty of the lesser-included offense of the charge in Count One of the Second Superseding Indictment, that is, of conspiracy to distribute and possess with intent to distribute 5 grams or more of methamphetamine (actual) and 50 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance in violation of Title 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter. (Doc. 551.)

Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation.

Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation (Doc. 551) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Count One of the Second Superseding Indictment is **GRANTED**;
- (2) Defendant's plea of guilty to the lesser-included offense of the charge in Count One, that is, of conspiracy to distribute and possess with intent to distribute 5 grams or more of methamphetamine (actual) and 50 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance in violation of Title 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty to the lesser-included offense of the charge in Count One, that is, of conspiracy to distribute and possess with intent to distribute 5 grams or more of methamphetamine (actual) and 50 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance in violation of Title 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B);
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **October 6, 2021, at 2:00 p.m.** before the undersigned.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE